



Staff Report

October 24, 2017

TO: Chairman Hogan and Planning Commission Members
FROM: Robert King, Town Planner
DATE: October 24, 2017
RE: Amendment of Alcohol Beverage Regulations

Recommendation

Adopt Resolution #17-10 recommending the Town Council approve amendments to **Section 13.42.050 Alcoholic Beverage Sales** of the **Loomis Municipal Code** modify the existing prohibition on-site consumption of alcohol within 500 feet of schools, religious facilities, public parks and playgrounds by 1) reducing the separation requirement to 300 feet; and 2) making an exception for Blue Anchor Park, where no separation would be required.

Issue Statement and Discussion

Section 13.42.050 Alcoholic Beverage Sales, prohibits both on-site and off-site sale of alcoholic beverages within 500 feet of schools, religious facilities, public parks and playgrounds.

In 2011 the Blue Anchor Park opened within the central portion of the Town Center Commercial Area. This had the unintended consequence of prohibiting all alcoholic sales within 500 feet of it, except those operating at that time, which were grandfathered in. But even this exception expires if the use is discontinued for over a year, such as the former Horseshoe Bar and Grill.

Currently there are a number of landowners within the town center along Taylor Road who are considering opening or reopening restaurants, grills, wine tasting rooms, pubs, and similar venues. As the law now stands, any new establishment within 500 feet of Blue Anchor Park would not be able to serve alcoholic beverages.

The State Alcohol Beverage Control prohibits alcohol sales within 300 feet of a sensitive use, unless the local jurisdiction approves such a use. The Town's Ordinance prohibits sales within 500 feet, but with no exceptions. The proposed amendment would require a 300 foot separation from sensitive uses with the exception of Blue Anchor Park where no separation would be required for businesses selling alcohol for on-site consumption. It would also provide consistency so that the 300 foot prohibition limit for on-site sales within Loomis is the same as that imposed by the State. The 500 foot prohibition for off-site sales will remain unchanged.

As to the compatibility of places serving alcohol and children at Blue Anchor Park, the peak use of the park is in the afternoon, which is usually the least active time for these establishments. The peak times for restaurants and the like are in the evenings, when the park is least used.

The Loomis Brew Pub is allowed as a grandfathered use, and is actually adjacent to the Park. The Sheriff's Department has not recorded any incidents, and the Pub has in fact proven to be a popular asset for various community festivals and events held in the plaza. With the exception of it, no other sites would front along the park, most will usually be at least one block from it.

CEQA Requirements

The proposed amendment is exempt as a General Rule Exemption as per Section 15061 (b) (3) which states, "*where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.*" Approval of this amendment does not change the existing requirements that any new facility whether or not it serves alcohol, be first approved by the Town prior to operation, where further environmental review would be undertaken as required.

Financial and/or Policy Implications

Restaurants, pubs, grill, and similar establishments are sources of retail taxes to the Town, in addition to providing jobs. These establishments are essential to restoring and providing vitality to the central core of the Town, and the encouragement of other businesses – a key component of the Downtown Plan section of the Loomis General Plan.

Attachments

- A. Resolution
- B. Text Amendment

**LOOMIS PLANNING COMMISSION
RESOLUTION NO. 17-10
OCTOBER 24, 2017**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF LOOMIS RECOMMENDING APPROVAL OF A ZONING AMENDMENT TO SECTION 13.42.050 OF THE LOOMIS MUNICIPAL CODE.

WHEREAS, creation of Blue Anchor Park in 2011 had the unintended consequence of restricting all new alcoholic beverage sales within 500 feet of it; and

WHEREAS, on-site sales of alcoholic beverage is necessary for the successful operation of restaurants, pubs, grills, wine tasting and similar establishments and continued economic development and vitality of the Town Center of Loomis which is important to the well being of business and the community; and,

WHEREAS, the amendment would require on-site alcohol sales to be separated from all schools, religious facilities, public parks and playgrounds by a minimum of three hundred feet, with the exception of Blue Anchor Park where no separation would be required; and

WHEREAS, on October 24, 2017, the Planning Commission conducted a public hearing of the proposed amendment, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff report relating to the proposed amendment to the alcoholic sales requirements, the written and oral evidence presented to the Planning Commission in support of and in opposition; and

WHEREAS, It can be seen with certainty there is no possibility the proposed amendment would have a significant effect on the environment, as it does not change the existing requirements for new facility whether or not it serves alcohol, must be first approved by the Town prior to operation, the project is exempt as a General Rule Exemption as per Section 15061 (b) (3) of the CEQA Guidelines; and

NOW THEREFORE, the Planning Commission of the Town of Loomis, at its meeting of October 24, 2017, did resolve as follows: To approve *Resolution #17-10* recommending the amendment of Section 13.42.050 Alcoholic Beverage Sales of the Loomis Zoning Ordinance.

ADOPTED this 24th day of October 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Robert King, Town Planner

Michael Hogan, Chairman

13.42.050 - Alcoholic Beverage Sales.

A. Purpose. The town wishes to pay special attention to establishments that sell alcohol because of their potential to create problems including littering, loitering, public intoxication and disturbances. At the same time, the town wishes to avoid imposing unduly burdensome requirements on local businesses by requiring commission or council approval of these uses.

B. Permit Requirement. The owner of an on- or off-sale liquor establishment shall obtain an Alcoholic Beverage permit from the director prior to commencing operations. This permit requirement shall not apply to liquor establishments in existence or those with all required land use approvals as of August 10, 2001, until such time as these establishments come under new ownership. However, a permit holder who is not grandfathered and is issued a different type of liquor license thereafter, shall file a supplemental land use application, and their permit shall be subject to additional land use conditions at the discretion of the director.

C. Location Requirements.

1. **Off-Sale:** An off-sale liquor establishment shall be separated by a minimum of five hundred feet from all schools, religious facilities, public parks and playgrounds.
2. **On-Sale:** An on-sale liquor establishment shall be separated by a minimum of three hundred feet from all schools, religious facilities, public parks and playgrounds with the exception of Blue Anchor Park where no separation shall be required.
3. The distance shall be measured between the nearest point of the grounds, in use as part of a school, religious facility, public park or playground, and the primary public entrance of the liquor establishment, along the shortest route intended and available for public passage.

D. Operating Standards. Each on- or off-sale liquor establishment shall comply with all of the following standards at all times.

1. **Complaints.** The owner shall designate him or herself, or one or more persons responsible for addressing complaints about operations and maintenance, and for responding to concerns of adjacent property owners and other members of the community. Each liquor establishment shall have a phone directory public telephone listing. Written notice of the designated person shall be on file with the town at all times.

2. **Consumption.** No alcoholic beverages shall be consumed on the premises of an off-sale liquor establishment that is not also an on-site liquor establishment.
3. **Employee Training.** All servers should, within ninety days of employment, complete an approved course in responsible beverage service training, including a review of pertinent state laws such as Alcoholic Beverage Control (ABC) and Penal Code provisions dealing with sale to minors; the effects of alcohol on people, including the impairment of driving skills; and methods of dealing with intoxicated customers and recognizing minors.
4. **Graffiti.** The owner or operator shall eliminate graffiti within seventy-two hours of notification by the town.
5. **Laws.** The establishment shall be maintained and operated in a manner that complies with all applicable laws, rules, and regulations.
6. **Noise.** Noise generated by the establishment shall not exceed sixty dBA at the property line if the abutting property is in a residential zoning district or occupied by a residential use, or sixty-five dBA at the property line if the abutting property is in a nonresidential zoning district or is occupied by a nonresidential use.
7. **Nuisance.** The establishment shall be maintained and operated in a manner that does not create or allow a public or private nuisance.
8. **Operation.** The establishment shall be maintained and operated in a manner that minimizes the congregation of individuals, loud noise, violence, on-site drunkenness, public urination, solicitation, loitering, and littering.
9. **Permit Posting.** A copy of the permit for alcohol sales shall be posted on the premises in a conspicuous place where it may be readily viewed by the public.
10. **Telephones.** Each public telephone located on an off-sale premises (or located in an adjacent area under the control of the off-sale licensee) shall be equipped with devices or mechanisms that prevent persons from calling into that public telephone, if requested by the chief of police.
11. **Trash.** Off-sale liquor establishments shall have litter and trash receptacles at convenient locations inside and outside the premises, and the operators shall remove trash and debris on a daily basis to an enclosed trash receptacle.

E. Conditions of Approval. In addition to ensuring compliance with the operating standards in subsection D, the director is assigned the discretion to impose conditions on permits for alcohol sales that are reasonably calculated to mitigate adverse land use impacts that may otherwise occur as a result of operating a particular liquor establishment.

F. Permit Issuance. The director shall either approve or disapprove a permit for alcohol sales within ten days the application for alcohol sales is deemed complete, and all other required permits by the town have been approved. The director or town staff shall inform the applicant as soon as possible of any information missing from the application.

G. Revocation. Except as otherwise provided by this section, a permit for alcohol sales may be revoked in the same manner as a use permit, for failure to comply with the standards in this section or any conditions of approval. As part of the revocation proceedings, the planning commission may issue a warning, suspend a permit for a specified amount of time, or permanently revoke the permit, based on the seriousness of the underlying misconduct and the applicant's apparent ability to operate the establishment in compliance with applicable standards and conditions in the future. The commission shall make written findings in support of its decision.

H. Appeal. The director's decision may be appealed to the planning commission within ten days of the decision. A planning commission decision may be appealed to the council in the same manner, and under the same circumstances, as an appeal of a decision to revoke a use permit. (Ord. 205 § 1 (Exh. A), 2003)
